

§ 1544.230

49 CFR Ch. XII (10–1–14 Edition)

seek correction of their FBI criminal record.

(4) Audit the employment history investigations performed in accordance with this section and 14 CFR 108.33 in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001). The aircraft operator must set forth the audit procedures in its security program.

[67 FR 8364, Feb. 22, 2002, as amended at 71 FR 30511, May 26, 2006]

§ 1544.230 Fingerprint-based criminal history records checks (CHRC): Flightcrew members.

(a) *Scope.* This section applies to each flightcrew member for each aircraft operator, except that this section does not apply to flightcrew members who are subject to § 1544.229.

(b) *CHRC required.* Each aircraft operator must ensure that each flightcrew member has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in § 1544.229(d), before allowing that individual to serve as a flightcrew member.

(c) *Application and fees.* Each aircraft operator must ensure that each flightcrew member's fingerprints are obtained and submitted as described in § 1544.229 (e) and (f).

(d) *Determination of arrest status.* (1) When a CHRC on an individual described in paragraph (a) of this section discloses an arrest for any disqualifying criminal offense listed in § 1544.229(d) without indicating a disposition, the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before the individual may serve as a flightcrew member. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in § 1544.229(d), the flight crewmember is not disqualified under this section.

(2) When a CHRC on an individual described in paragraph (a) of this section discloses an arrest for any disqualifying criminal offense listed in § 1544.229(d) without indicating a disposition, the aircraft operator must suspend the individual's flightcrew member privileges not later than 45

days after obtaining a CHRC, unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in § 1544.229(d), the flight crewmember is not disqualified under this section.

(3) The aircraft operator may only make the determinations required in paragraphs (d)(1) and (d)(2) of this section for individuals whom it is using, or will use, as a flightcrew member. The aircraft operator may not make determinations for individuals described in § 1542.209(a) of this chapter.

(e) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny the individual the ability to serve as a flightcrew member, the aircraft operator must advise the individual that the FBI criminal record discloses information that would disqualify the individual from serving as a flightcrew member and provide the individual with a copy of the FBI record if the individual requests it.

(2) The aircraft operator must notify the individual that a final decision has been made to allow or deny the individual flightcrew member status.

(3) Immediately following the denial of flightcrew member status, the aircraft operator must advise the individual that the FBI criminal record discloses information that disqualifies him or her from retaining his or her flightcrew member status, and provide the individual with a copy of the FBI record if he or she requests it.

(f) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his

or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record or a certified true copy of the information from the appropriate court, prior to allowing the individual to serve as a flightcrew member.

(2) If no notification, as described in paragraph (f)(1) of this section, is received within 30 days, the aircraft operator may make a final determination to deny the individual flightcrew member status.

(g) *Limits on the dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section. No person may disseminate the results of a CHRC to anyone other than—

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Others designated by TSA.

(h) *Recordkeeping*—(1) *Fingerprint application process.* The aircraft operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct aircraft operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(2) *Protection of records.* The records required by this section must be maintained by the aircraft operator in a manner that is acceptable to TSA that protects the confidentiality of the individual.

(3) *Duration.* The records identified in this section with regard to an individual must be made available upon request by TSA, and maintained by the aircraft operator until 180 days after the termination of the individual's privileges to perform flightcrew member duties with the aircraft operator. When files are no longer maintained, the aircraft operator must destroy the CHRC results.

(i) *Continuing responsibilities.* (1) Each flightcrew member identified in paragraph (a) of this section who has a disqualifying criminal offense must report the offense to the aircraft operator within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(2) If information becomes available to the aircraft operator indicating that a flightcrew member identified in paragraph (a) of this section has a possible conviction for any disqualifying criminal offense in § 1544.229 (d), the aircraft operator must determine the status of the conviction. If a disqualifying criminal offense is confirmed, the aircraft operator may not assign that individual to flightcrew duties in operations identified in paragraph (a).

(j) *Aircraft operator responsibility.* The aircraft operator must—(1) Designate a direct employee to maintain, control, and, as appropriate, destroy criminal records.

(2) Designate an individual(s) to maintain the CHRC results.

(3) Designate an individual(s) at appropriate locations to receive notification from individuals of their intent to seek correction of their FBI criminal record.

(k) *Compliance date.* Each aircraft operator must comply with this section for each flightcrew member described in paragraph (a) of this section not later than December 6, 2002.

[67 FR 8209, Feb. 22, 2002]

§ 1544.231 Airport-approved and exclusive area personnel identification systems.

(a) Each aircraft operator must establish and carry out a personnel identification system for identification media that are airport-approved, or identification media that are issued for use in an exclusive area. The system must include the following:

(1) Personnel identification media that—

(i) Convey a full face image, full name, employer, and identification number of the individual to whom the identification medium is issued;

(ii) Indicate clearly the scope of the individual's access and movement privileges;

(iii) Indicate clearly an expiration date; and

(iv) Are of sufficient size and appearance as to be readily observable for challenge purposes.

(2) Procedures to ensure that each individual in the secured area or SIDA continuously displays the identification medium issued to that individual